

**REMARKS**

Claims 1 and 3-24 are pending this application. Reconsideration of this application based on the amendments to the claims and the arguments presented here is respectfully requested.

**35 U.S.C. § 103 Rejections**

Claims 1, 3-5, 7-10, 12-16, and 18-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over McCrady (US 6,453,168) in view of Negishi (US 5,974,330). Applicant respectfully traverses this rejection.

McCrady or Negishi, alone or in combination, do not teach or suggest all elements of the present claims. McCrady does not teach or suggest the element “gathering a list of wireless addresses of nearby devices in communication with a network by the mobile device” as the Examiner suggests. The Examiner states McCrady discloses “gathering a list of wireless addresses/location and range data of nearby fixed or mobile reference devices in communication with a network by the mobile device; see Fig. 1 and col. 6, line 44 – col. 7, line 30.” Office Action p. 3. This is an incorrect interpretation of the claim language. The gathering of a list of wireless addresses is not equivalent to gathering location and range data. In the present invention as claimed, an example of gathering a list of wireless addresses is recording the MAC addresses of certain devices at particular points. See e.g., Specification, p. 16, para. [0045]. This gathering processing is not determining location or range data at all.

McCrady does not possess any gathering functionality. McCrady discloses determining ranging location of mobile devices. A radio sends an outbound ranging message and receives a reply message and ascertains a location based on time of arrival of the ranging messages. The addresses (e.g., MAC addresses) of the radios are irrelevant to this ranging technique. See col. 4, line 52-col. 5, line 8 and col. 6, line 44 – col. 8, line 3. McCrady simply sends out a radio signal and measures the time of its return. There is no analog in McCrady to the method and structure in the present claims.

Furthermore, McCrady explicitly states a method for “determining the three-dimensional indoor or outdoor position of a compact mobile communication device in the presence of severe multipath interference for using in the aforementioned applications.” Col. 3, lines 48-51. This statement limits the disclosure of McCrady to the method its employs, that is, determining

location via ranging messages. As such, McCrady's method is not congruent with the present claims, which employ quite different methods and structures to accomplish its goals.

Accordingly, Applicant submits McCrady is an improper primary reference.

Negishi fails to cure any of McCrady's deficiencies. Negishi does not disclose each and every element of the claims as the Examiner suggests. First, sending a location request to a location service as claimed is not disclosed. In Negishi, a portable telephone does not "send a request" to, or is even aware of, a location service. See col. 3, line 66 – col. 4, line 14. Identifiers are merely extracted from the mobile device and displayed on the mobile device for a user to see on the mobile device.

Negishi also fails to disclose correlating a list of addresses with zone information of the database. Negishi does not provide a list of addresses for which a host could correlate with a database. The database of Negishi merely performs a lookup based on identifier data and provides the proper location of a base station from the data table. Because Negishi does not consider a concept of gathering and using a list of addresses, Negishi does not render the present claims obvious.

Moreover, the combination of McCrady and Negishi is improper. Combining Negishi with McCrady changes the principle operation of McCrady. Although both references disclose methods for determining location, the methods disclosed are quite disparate and incompatible. McCrady's method of measuring the timing of inbound and outbound messages cannot utilize ranging or determining location via a lookup. Such a combination would utilize two different distances for a particular item's location. Applicant submits that McCrady's and Negishi's methods are mutually exclusive and thus a combination of the references is improper.

Furthermore, no reason has been suggested by the Examiner as to how or why one of ordinary skill would consult these references and combine them. The Examiner states the function of McCrady, "determining the location of a mobile device using the position of reference nodes which are with fixed (stationary) or mobile," and then states the function of Negishi, "sending a location request to host/location service accessible through the network wirelessly by the mobile device" (which is a element of the present claims), teaching "a method of location registration request to a database linked to the base station and correlating a list of addresses/base station IDs with location of base station/zone information" and "determining the

location of the mobile device by utilizing the base station identifier code.” The Examiner then makes a conclusory statement that “it would have been obvious to use the location determination method taught by Negishi to be used with the fixed/stationary nodes of McCrady’s reference in order to obtain the position of the mobile station in a more simpler and accurate manner that the TOA method disclosed by McCrady.” There is no support in either reference for their combination. No evidence exists that shows for example that Negishi’s method is simpler and more accurate than McCrady’s method. Even if the references disclosed the elements of the claims as the Examiner has suggested, the only path to their combination is through the Applicant’s specification. As argued above, the two methods are incompatible with one another. Accordingly, Applicant respectfully requests withdrawal of this rejection.

Claim 19-21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over McCrady and Negishi in view of Parry (US 2002/0164997). Applicant respectfully traverses this rejection.

As argued above, McCrady and Negishi do not disclose each and every element of the claims. Even if the combination were proper, Parry does not cure the deficiencies of the McCrady-Negishi combination. Accordingly, Applicant respectfully requests withdrawal of this rejection.

Respectfully submitted,

BERRY & ASSOCIATES P.C.

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9255 Sunset Blvd., Suite 810  
Los Angeles, CA 90069  
(310) 247-2860

By: /Shawn Diedtrich/  
Shawn Diedtrich  
Registration No. 58,176  
480.704.4615 (direct)